

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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EDBERT NEAL WILLIAMS,

Case No. 15-CV-4042 (SRN/FLN)

Petitioner,

ORDER

v.

MICHELLE SMITH, Warden - Oak Park  
Heights Correctional Facility, Minnesota,

Respondent.

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This matter is now before the Court on two motions from petitioner Edbert Neal Williams. First, Williams requests a certificate of appealability (“COA”) with respect to the denial of his petition for a writ of habeas corpus. *See* 28 U.S.C. § 2253(c). The Court has already declined to issue a COA, *see* Doc. No. 21 at 33, and nothing in the motion from Williams convinces the Court that its earlier decision not to issue a COA was mistaken. Accordingly, that motion is denied.

Second, Williams requests *in forma pauperis* (“IFP”) status in seeking to appeal the denial of his habeas petition. The Court has reviewed the IFP application and concludes that Williams qualifies financially for IFP status. Moreover, although a litigant may proceed IFP only if his appeal is taken in good faith, and although the Court has declined to issue a COA, “[t]he standard for granting an application for leave to proceed *in forma pauperis* . . . is a lower standard than the standard for certificates of appealability.” *Moore v. Haas*, Civil No. 2:13-CV-12225, 2013 WL 5819593, at \*6 (E.D. Mich. Oct. 29, 2013); accord *United States v. Youngblood*, 116 F.3d 1113, 1115 (5th Cir. 1997). The Court continues to believe that the

habeas petition was properly denied, but Williams's appeal is not frivolous as the Supreme Court has defined that term. Accordingly, the IFP application is granted.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS  
HEREBY ORDERED THAT:

1. The application to proceed *in forma pauperis* on appeal of petitioner Edbert Neal Williams [Doc. No. 26] is GRANTED.
2. Williams's motion for a certificate of appealability [Doc. No. 23] is DENIED.

Dated: August 23, 2016

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge